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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TIM TOTH,)
)
Plaintiff,)
)
vs.)
)
AARGON AGENCY, INC., and Does 1-10,)
inclusive,)
)
Defendants.)

Case No.: 2:13-CV-193-MMD-VCF

ANSWER

Comes now AARGON AGENCY, INC., by its' attorney, ARMAND FRIED, ESQ., and as and
for its' Answer to the Plaintiff's Complaint, states and avers:

INTRODUCTION

1. Answering paragraph 1 of Plaintiff's Complaint, Defendant DENIES the same to the extent that
it alleges that automated calls were placed to Plaintiff's cellular phone either negligently,
knowingly or willfully or otherwise in violation of the Telephone Consumer Protection Act, 47
U.S.C. §227 *et seq.*

JURISDICTION AND VENUE

2. Answering paragraph 2 of Plaintiff's Complaint, Defendant ADMITS the allegations contained
therein.

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3. Answering paragraph 3 of Plaintiff's Complaint, Defendant ADMITS the allegations contained therein.

4. Answering paragraph 4 of Plaintiff's Complaint, Defendant is without sufficient knowledge and information upon which to base a belief as to the truth or falsity of the allegations therein and therefore DENIES the same on that basis.

PARTIES

5. Answering paragraph 5 of Plaintiff's Complaint, Defendant is without sufficient knowledge and information upon which to base a belief as to the truth or falsity of the allegations therein and therefore DENIES the same on that basis.

6. Answering paragraph 6 of Plaintiff's Complaint, Defendant ADMITS the allegations contained therein.

THE TELEPHONE CONSUMER PROTECTION ACT OF 1991

7. Answering paragraph 7 of Plaintiff's Complaint, Defendant is without sufficient knowledge and information upon which to base a belief as to the truth or falsity of the allegations therein and therefore DENIES the same on that basis.

8. Answering paragraph 8 of Plaintiff's Complaint, Defendant is without sufficient knowledge and information upon which to base a belief as to the truth or falsity of the allegations therein and therefore DENIES the same on that basis.

9. Answering paragraph 9 of Plaintiff's Complaint, Defendant states that the allegations thereof simply cite a statute the provisions of which are what they are and otherwise take no position relative thereto, respectfully leaving the meaning and import of the statutory language to the interpretation of the Court.

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10. Answering paragraph 10 of Plaintiff's Complaint, Defendant states that the allegations thereof simply cite a statute the provisions of which are what they are and otherwise take no position relative thereto, respectfully leaving the meaning and import of the statutory language to the interpretation of the Court.

11. Answering paragraph 11 of Plaintiff's Complaint, Defendant states that the allegations thereof simply cite rules and regulations promulgated by the FCC, the provisions of which are what they are and otherwise take no position relative thereto, respectfully leaving the meaning and import of the language of such rules and regulations to the interpretation of the Court.

12. Answering paragraph 12 of Plaintiff's Complaint, Defendant states that the allegations thereof simply cite a declaratory ruling the provisions of which are what they are and otherwise take no position relative thereto, respectfully leaving the meaning and import of the language in the said declaratory ruling to the interpretation of the Court.

ALLEGATIONS APPLICABLE TO ALL COUNTS

13. Answering paragraph 13 of Plaintiff's Complaint, Defendant ADMITS that it owns such a system but DENIES it was ever used improperly in connection with this Plaintiff.

14. Answering paragraph 14 of Plaintiff's Complaint, Defendant is without sufficient knowledge and information upon which to base a belief as to the truth or falsity of the allegations therein and therefore DENIES the same.

15. Answering paragraph 15 of Plaintiff's Complaint, Defendant is without sufficient knowledge and information upon which to base a belief as to the truth or falsity of the allegations therein and therefore DENIES the same.

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16. Answering paragraph 16 of Plaintiff's Complaint, Defendant is without sufficient knowledge and information upon which to base a belief as to the truth or falsity of the allegations therein and therefore DENIES the same.

17. Answering paragraph 17 of Plaintiff's Complaint, Defendant DENIES the same, as Defendant was using a number provided by Plaintiff and thus had clear prior consent to use that number.

18. Answering paragraph 18 of Plaintiff's Complaint, Defendant that any calls it made to Plaintiff's telephone were not for emergency purposes.

19. Answering paragraph 19 of Plaintiff's Complaint, Defendant is without sufficient knowledge and information upon which to base a belief as to the truth or falsity of the allegations therein and therefore DENIES the same.

COUNT I
Negligent Violations of the Telephone Consumer Protection Act,
47 U.S.C. § 227, et. Seq.

20. Answering paragraph 20 of Plaintiff's Complaint, Defendant repeats and realleges the denials and admissions of paragraphs 1 through 19 above.

21. Answering paragraph 21 of Plaintiff's Complaint, Defendant DENIES the allegations therein.

22. Answering paragraph 22 of Plaintiff's Complaint, Defendant DENIES the allegations therein.

23. Answering paragraph 23 of Plaintiff's Complaint, Defendant DENIES the allegations therein.

24. Answering paragraph 24 of Plaintiff's Complaint, Defendant ADMITS the truth of the allegations therein.

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COUNT II
Knowing and/or Willful Violations of the Telephone Consumer Protection Act,
47 U.S.C. § 227, et. Seq.

25. Answering paragraph 25 of Plaintiff's Complaint, Answering paragraph 20 of Plaintiff's Complaint, Defendant repeats and realleges the denials and admissions of paragraphs 1 through 24 above.

26. Answering paragraph 26 of Plaintiff's Complaint, Defendant DENIES the allegations therein.

27. Answering paragraph 27 of Plaintiff's Complaint, Defendant DENIES the allegations therein.

28. Answering paragraph 28 of Plaintiff's Complaint, Defendant DENIES the allegations therein.

29. Answering paragraph 29 of Plaintiff's Complaint, Defendant DENIES the allegations therein.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

30. Plaintiff supplied the telephone number used by Defendant to the creditors that Defendant represented and as such he gave clear and unambiguous authorization to Defendant to use the said telephone number in its authorized commercial activities. Accordingly, the use of the cellular number did not violate the provisions of the TCPA.

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PRAYER FOR RELIEF

WHEREFORE, Defendant respectfully prays that the Court enter judgment as follows:

1. That Plaintiff takes nothing under this Complaint; and
2. That Defendant is awarded the costs and fees, including the reasonable attorneys' fees incurred by virtue of this case; and
3. For such other, different and further relief as the Court may deem just and proper.

Dated: March 29, 2013

/s/ Armand Fried
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Armandfried@msn.com;
Attorney for Defendant Aargon Agency, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will serve a copy of the foregoing to Plaintiff via the Court's CM/ECF system this March 29, 2013.

/s/ Armand Fried
Armand Fried, Esq.